

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  OFFICE OF CONSUMER ADVOCATE,  Complainant,  vs.  IONEX TELECOMMUNICATIONS, INC.,  Respondent.	DOCKET NO. FCU-03-6 (C-02-420)
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**ORDER DENYING PETITION FOR PROCEEDING  
TO IMPOSE CIVIL PENALTIES**

(Issued June 18, 2003)

On January 13, 2003, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition for a proceeding to impose civil penalties pursuant to Iowa Code § 476.103, asking that the Board review the proposed resolution issued in C-02-420, involving Ionex Telecommunications, Inc. (Ionex), and consider the possibility of assessing a civil penalty pursuant to Iowa Code § 476.103(4)"a." Based upon the record assembled in the informal complaint proceedings, which are a part of the record in this proceeding pursuant to 199 IAC 6.7, the events to date can be summarized as follows:

On December 11, 2002, Mr. Tom Murray of Estherville, Iowa, submitted a complaint with the Board against Ionex. Mr. Murray alleged that his local telephone service was switched to Ionex without his authorization in violation of Iowa's anti-slamming law, Iowa Code § 476.103.

On December 13, 2002, Board staff forwarded Mr. Murray's complaint to Ionex and directed Ionex to respond to the allegations on or before December 23, 2002. On December 30, 2002, Board staff issued a proposed resolution stating that Ionex failed to respond to Mr. Murray's complaint and as a result, directed Ionex to credit Mr. Murray's account. The proposed resolution also prohibited Ionex from attempting to collect any charges from Mr. Murray. Board staff proposed that the credits to Mr. Murray's account represented a fair resolution of the situation. No other party other than Consumer Advocate has challenged the staff's proposed resolution.

Consumer Advocate argues that Ionex violated Iowa Code § 476.103 by failing to obtain the requisite customer authorization before switching Mr. Murray's local telephone service and that, as a result of this violation, a civil penalty should be imposed against Ionex.

The Board will deny the request for formal proceedings. Iowa Code § 476.3 requires that the Board grant a request to initiate a formal proceeding if there is any reasonable ground for investigating the complaint. Consumer Advocate has not offered any reasonable ground for further investigation of this matter. The request for formal proceeding fails to address the proposed resolution or to request, or even

suggest, any specific remedy beyond what has already been done. In the absence of any such request, there is no basis for further investigation of this matter.

The customer's failure to challenge the proposed resolution indicates that the customer is satisfied with the resolution and does not wish to pursue this matter further. Consumer Advocate has not identified any reason to disturb those wishes.

**IT IS THEREFORE ORDERED:**

The "Petition For Proceeding To Impose Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on January 13, 2003, is denied.

**UTILITIES BOARD**

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/s/ Mark O. Lambert

ATTEST:

/s/ Sharon Mayer  
Executive Secretary, Assistant to

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 18<sup>th</sup> day of June, 2003.